

Application No.: 09/828,976**Docket No.: 30003575-4****REMARKS**

Independent claims 18, 35 and 40 have been amended to include the subject matter of dependent claims 19, 36 and 41, respectively, and to define applicants' contribution to the art more specifically. To this end, applicants have cancelled claims 19, 36 and 41. Claims 18, 35 and 40 have been amended to obviate the rejections under 35 USC 101 and under 35 USC 112, paragraph 2, as set forth in the third paragraph of section 3.2 of the office action, relating to the "determining" step. Claims 21, 22, 42 and 43 have been amended to overcome the rejection thereof based on 35 USC 112, paragraph 2, because of antecedent problems.

The amendment of claim 18 avoids the rejections thereof based on 35 USC 101 and 35 USC 112, paragraph 2 because the "determining" step is required to be performed by a technical arrangement and the "checking" step is required to be performed "automatically." Claim 35, as amended, avoids the rejections thereof based on 35 USC 101 and 35 USC 112, paragraph 2, because an automatic processor arrangement is required for performing the determining, checking and notifying operations. Claim 40, as amended, is directed to a storage medium or storage device that is readable by a machine and is tangibly embodying a program of instructions the machine can execute to perform a method. As such, claim 40 is directed to an article of manufacture. Hence, each of independent claims 18, 35 and 40 clearly falls within the Technical Art. The "determining" step or operation of claims 18 and 35 is executed in accordance with the technical arts. The determining step of claim 40 is readable by a machine and thus is within the technical arts.

Applicants traverse the rejection of claims 18-56 under 35 USC 112, first paragraph, as failing to comply with the enablement requirement. The office action incorrectly states the

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"determining" and "checking" steps and operations of independent claims 18, 35 and 40 are not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. The office action states the foregoing limitations do not indicate the use of the technology, whereas the specification explicitly teaches that the "determining" and "checking" steps are executed by a computerized server system via the Internet/WAP.

Applicants are puzzled by the implication that it is necessary for the independent claims to require the "determining" and "checking" steps and operations to be performed by a computerized server system via the Internet/WAP. It is well established under United States law that an applicant is entitled to the broadest protection that the prior art permits. The foregoing implication in the office action that independent claims 18, 35 and 40 must require the "determining" and "checking" steps and operations to be performed by a computerized server system via the Internet/WAP is thus contrary to the established case law. In any event, claims 18 and 35 respectively indicate the "determining" and "checking" steps and operations are performed automatically and by an automatic processor arrangement. Claim 40 indicates these steps are stored on a machine readable storage medium or storage device.

The specification clearly provides a basis for the "determining" and "checking" steps and operations. For example, in connection with the Figure 6 embodiment, the passage on page 14, lines 4-19 refers to process 47 of server system 40 that uses the services of location server 67 of a Public Land Mobile Network to determine when a user, as represented by its mobile device 20, is close to a location registered in database 43. In response to the mobile device being close to the location, process 47 carries out the order status check by contacting merchant database 73. In this

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embodiment, the PLMN is used for communication between service system 40 and mobile device 20 and the "Internet or other appropriate network" for communication between the service system and merchant premises 88; see page 14, line 2. In connection with the Figure 7 embodiment, page 17, line 26-page 18, line 2, describes the ability of a user's mobile device to pick up short-range transmissions from a merchant's premises to indicate the user is close to the premises of the merchant. The mobile device of the user checks the reminders that it has stored and, if appropriate, contacts the IT system of the business premises over the short-range link to check order status.

The foregoing examples in connection with Figures 6 and 7 indicate the "detecting" and "communicating" steps and operations can be performed by a variety of means and that communication between the components does not require use of the Internet or WAP. In other words, the present specification, on its face, indicates the claims do not have to be limited as implied by paragraph 3.1 of the office action.

Independent claims 18, 35 and 40, as amended, overcome the rejections of claims 18-28, 31, 34-38, 40-50, 53 and 56 as being anticipated by Treyz, U.S. Patent 6,587,835, and of claims 29, 30, 32, 33, 39, 51, 52, 54 and 55 as being obvious as result of Treyz in view of Official Notice. In particular, claims 18, 35 and 40 require the step or operation of determining when a mobile entity is close to a location. When the mobile entity is close to the location, an automatic check of data indicative of current status of a transaction is performed. The word "thereupon" indicates that the check of current status is performed when the mobile entity is close to the location. Applicants' review of the passages in Treyz cited in the office action, as well as a general review of the reference, fails to disclose or suggest that detecting the proximity of a mobile device user is to be

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used to thereupon check stored data indicating current status of a transaction. In contrast, the notifications sent to the mobile device in the reference are triggered solely by events at the notifying party. While Treyz discloses detecting the location of the mobile device and detecting proximity of the mobile device to a store, such detection is not used to thereupon activate a status check on a transaction to determine if a visit to a store by a user of the mobile device is appropriate.

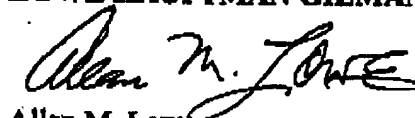
The Summary of the Invention portion of the application has been amended so it is consistent with the independent claims, as now submitted.

In view of the foregoing amendments and remarks, favorable reconsideration and allowance are respectfully requested and deemed in order.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN GILMAN & BERNER, LLP



Allan M. Lowe
Registration No. 19,641

Customer Number: 22429
1700 Diagonal Road, Suite 300
Alexandria, Virginia 22314
(703) 684-1111
(703) 518-5499 Facsimile
Date: September 13, 2004
AML/pjc

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